



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

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CITY ATTORNEY FILES LAWSUIT THAT SEEKS RECEIVERSHIP FOR RETIREMENT BOARD, ROLL BACK OF ILLEGAL PENSION BENEFITS, AND HIS REINSTATEMENT AS THE SDCERS ATTORNEY

San Diego, CA: City Attorney Michael Aguirre today announced a civil lawsuit against the San Diego City Employees' Retirement System (SDCERS) Board of Administration requesting the court to void all pension benefits that were granted in 1996 and 2002 as a result of the so-called City Manager's Proposals 1 and 2. Don McGrath, Executive Assistant for major litigation, filed the Superior Court action that also requests that a receiver be appointed to take control of SDCERS and that the board be ordered to recalculate all affected benefits. The lawsuit further asks the Court to reinstate the City Attorney as the lawyer for the SDCERS board.

"The goal of this lawsuit is to help 18,000 pension system participants," said attorney McGrath. "We can accomplish this goal by rolling back the illegal benefits granted under the City Manager's proposals. In this way we will ensure that the City has sufficient funds to pay the legal benefits."

This action is in response to a January 27, 2005 lawsuit brought by the SDCERS against the City of San Diego and the City Attorney asking among other things that the court find that the City Attorney is barred from representing the City and the SDCERS Board.

In a series of six previously released reports, City Attorney Aguirre laid out facts and circumstances that led to his determination that these benefits were illegally granted. He has alleged that SDCERS board members had clear economic conflicts of interest when they approved the 1996 and 2002 City Manager proposals that allowed the City to underfund the pension system in exchange for an expansion of employee pension benefits.

"I have tried to resolve this pension crisis in a non-litigious manner," said City Attorney Aguirre. "However, the pension board's habitual, serial wrong-doing apparently cannot be solved without litigation. As your City Attorney I will not stand by and let the pension deficit wipe out our ability to function as a City."

The complaint contains a request for appointment of a receiver, and McGrath and the City Attorney will be discussing this issue with council members on July 19, after the Council returns from legislative recess.

"I believe that a consensus is emerging on the City Council that receivership is the way to solve this pension crisis," said City Attorney Aguirre. "Because I want to work cooperatively with council members, I will try to get their agreement before we go ahead."

(MORE)

Parties named in this complaint are SDCERS Board members and former members Joe Flynn, Thomas King, Bill Lopez, Steve Meyer, Thomas Page, Peter Preovolos, William Sheffler, Susan Snow, Mark Sullivan, John Thomson, John Torres, Robert Wallace, Richard Kipperman, Ron Saathoff, Mary Vattimo, Cathy Lexin, Terri Webster, and Sharon Wilkinson. Also named are Lawrence Grissom, SDCERS administrator, and Lorraine Lee Chapin, SDCERS legal counsel. City Auditor and Comptroller John Torell is named only because the complaint requests that he prepare an analysis of the effect of rolling back pension benefits.

The complaint alleges that all defendants, with the exception of Torell, intentionally and negligently breached their fiduciary duties to City retirees and violated both the City Charter and the State Constitution by permitting the City to incur debts that exceed its income each year since 1996.

“The lawsuit is the culmination of six months of hard work by all the staff in the City Attorney’s office,” stated McGrath. “It has been a joint effort by people who in many cases may have their very own benefits affected,” he added.

McGrath is the head of the City Attorney’s Pension Strike Force Team, which includes deputy city attorneys James Flaherty and Andrea Donovan.

During the past nine years, the pension system has gone from a funding level of 91.4% to today’s funding level of 65.8%. The City’s employee pension system is currently \$1.7 billion underfunded.

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